

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION

OF: MAIER, THOMAS

SERIAL No. 10/087,066

FILED: MARCH 01, 2002

FOR: HERBICIDAL 2-ALKYNYL-PYRI(MI)DINES

CONFIRMATION No.: 3220

GROUP ART UNIT: 1624

EXAMINER: DEEPAK R. RAO

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents and Trademarks, Alexandria, Va 22313-1450, on:

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October 14, 2004

Date of Signature

Honorable Commissioner  
for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REPLY UNDER 37 C.F.R. §1.111

Sir:

In reply to the Office action of September 22, 2004, it is respectfully requested that the following amendment be entered and considered by the Examiner:

A M E N D M E N T

IN THE CLAIMS:

Cancel Claims 9 and 14, amend Claims 1, 2, 15 and 20, and enter new Claims 22 and 23 as indicated in the Listing of Claims set forth in Appendix I attached to this paper.

R E M A R K S

Applicants' herewith present Claims 1 to 8, 10 to 12 and 15 to 23 as set forth in Appendix I of this paper. Claims 9 and 14 which were withdrawn by the Examiner have been canceled. Claims 1, 2, 15 and 20 have been amended to delete non-elected subject matter. New Claims 22 and 23 have been added to further bring out some embodiments of the compounds defined in Claim 2. The compounds enumerated in Claims 22 and 23 correspond to the compounds enumerated in Claim 9 with the difference that compounds which fail to meet the requirements of Claim 2 have been omitted. No new matter has been added.

The Examiner indicated that Claims 1 to 8, 10 to 12 and 15 to 21 would be in condition for allowance if amended to delete the non-elected embodiments in which X denotes N. The changes effected by applicants in Claims 1, 2, 15 and 20 remove the non-elected matter from the claims. The newly added claims depend upon Claim 2 and should therefore also be in condition for allowance<sup>1)</sup>. Favorable action is respectfully solicited.

Please charge any shortage in fees due in connection with the filing of this paper, including Extension of Time fees, to Deposit Account No. 11.0345. Please credit any excess fees to such deposit account.

Respectfully submitted,

KEIL & WEINKAUF



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Encl.: THE LISTING OF CLAIMS (Appendix I)

HBK/BAS

1) If an independent claim is non-obvious under 35 U.S.C. §103, then any claim depending therefrom is non-obvious (In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (CAFC 1988)).